

D313PENS

Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

09 CR 242 (NRB)

5 EDER PEDRAZA-PENA,

6 Defendant.

7 -----x

8 New York, N.Y.

9 March 1, 2013

4:20 p.m.

10 Before:

11 HON. NAOMI REICE BUCHWALD,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the

17 Southern District of New York

JENNA DABBS

18 Assistant United States Attorney

19 LOUIS CASUSO

Attorney for Defendant

20 ALSO PRESENT: Spanish Interpreter

D313PENS

Sentence

1 (In open court)

2 THE DEPUTY CLERK: This is United States v. Eder
3 Pedraza Peña, 09 CR 242. Is the government present and ready
4 to proceed?

5 MS. DABBS: Yes. Jenna Dabbs for the government.
6 Good afternoon, your Honor.

7 THE DEPUTY CLERK: Is the defendant present and ready
8 to proceed?

9 MR. CASUSO: Yes, your Honor. Louis Casuso on behalf
10 of Mr. Pedraza Peña who is before the Court with the aid of an
11 interpreter for sentencing, Judge.

12 THE COURT: Let me begin by reciting the documents
13 I've received in connection with the sentence.

14 First I have the report of the probation office
15 bearing a cover memo dated February 21, 2013. Next I have a
16 memorandum in aid of sentencing submitted by defense counsel
17 and filed on January 29, 2013. And finally, I have the
18 government's letter of February 28, 2013.

19 Are there any other documents I should have received?

20 MS. DABBS: No, your Honor.

21 MR. CASUSO: No, your Honor.

22 THE COURT: Let me just confirm that each of you has
23 received a copy of the probation office's report?

24 MS. DABBS: Yes, your Honor.

25 MR. CASUSO: Yes, your Honor.

1 THE COURT: Have you had a chance, Mr. Casuso, to
2 review it with your client?

3 MR. CASUSO: Yes, your Honor.

4 THE COURT: Do you have any objections to it?

5 MR. CASUSO: None, Judge.

6 THE COURT: Does the government have any objections?

7 MS. DABBS: No, your Honor.

8 THE COURT: The floor is yours, Mr. Casuso.

9 MR. CASUSO: Judge, this man is facing a long time
10 before you. The only thing we ask -- he is sorry for what he
11 did. His sister's before the Court, she came here, she is the
12 only one from his country who has a visa to come here. I would
13 ask that you give him the low end of the guidelines which is 19
14 years. He's 47 years old. He's facing a long time, Judge, and
15 I would ask that you not give him any more than that. Other
16 than that, we have nothing else to say.

17 THE COURT: Does the government want to say anything?

18 MS. DABBS: Your Honor, we believe that a guideline
19 sentence is appropriate in the case.

20 THE COURT: There seems to be a consensus.

21 MS. DABBS: What is clear from the PSR, and I will
22 note and I assume there won't be any disagreement from my
23 counterpart, I think the only possible mitigating factor is the
24 defendant's personal and family circumstances were certainly
25 difficult in a number of respects. In the government's view it

D313PENS

Sentence

1 doesn't outweigh the nature of the conduct here and the
2 applicability of a sentence within guidelines range.

3 MR. CASUSO: We agree with that, your Honor.

4 THE COURT: Mr. Pedraza Peña, you have the opportunity
5 to speak if you wish. It is not required, but you do have an
6 opportunity to speak.

7 THE DEFENDANT: Your Honor, I would like to ask you
8 for your forgiveness. Also, to ask you and my family and your
9 country to forgive me. I promise you that I am trying to be a
10 better person. And that I will accept your sentence, your
11 Honor. That is all, thank you very much.

12 THE COURT: Well, as I said earlier, there appears to
13 be a consensus that a guideline sentence is appropriate. And I
14 will concur with the defense counsel that it be at the bottom
15 of the guidelines of 235 months. And there is a \$100 special
16 assessment.

17 The probation department recommends no supervised
18 release since there are detainers from ICE and removal will
19 follow the sentence. I gather that there is no forfeiture
20 amount here.

21 MS. DABBS: That's correct, Judge. The government is
22 not pursuing forfeiture.

23 THE COURT: Just to add, there doesn't appear to be
24 any factor that would warrant a deviation from the guidelines
25 given the severity of the offense.

D313PENS

Sentence

1 I will advise the defendant that he has the right to
2 appeal the sentence that I've imposed. I think he may have
3 waived that right in his plea agreement.

4 And there are open counts.

5 MS. DABBS: That's right, Judge, and the government
6 would ask that the one open count be dismissed at this time.

7 THE COURT: The motion is granted. Is there anything
8 else?

9 MR. CASUSO: No, your Honor.

10 MS. DABBS: Nothing further from the government,
11 judge.

12 THE COURT: Thank you.

13 o0o
14
15
16
17
18
19
20
21
22
23
24
25